MASTER AND SERVANT—EIGHT HOUR LAW.—On a petition for a writ of habeas corpus, it appeared that two criminal complaints had been filed, charging the petitioner Albee, as mayor of Portland, with violating the provisions of the Labor Laws of Oregon, in that he permitted and required a designated fireman and a specified policeman to labor in their departments more than eight hours in one day, when there was no emergency demanding the performance of such extra service. *Held;* a policeman or fireman, required by municipal law to take an oath of office, and not subject to removal at the pleasure of the appointing power, but only in accordance with the civil service rules, is an officer, and not a "laborer" within the eight hour law for laborers employed by the state or its auxiliaries. (Laws 1913 c. 61.). *Albee* v. *Weinberger, Constable,* (Ore. 1914) 138 Pac. 859.

The court evidently arrived at its conclusion from the facts that the fireman and policeman were required to take an oath of office and were not subject to discharge except by virtue of the civil service rules. The language of the court in *Collins* v. *Mayor etc.,* 3 Hun. 680, was quoted: "probably the true test to distinguish officers from simple servants or employees is in the obligation to take the oath prescribed by law." In *State* v. *Martindale,* 47 Kans. 147, it was held that Sess. Laws, 1891, c. 114, making it unlawful for laborers, workmen, mechanics or other persons employed by the state of Kansas to work more than eight hours a day, did not include an officer or employee for whom an annual salary had been specifically named and appropriated by the legislature. In *Robinson* v. *Aiken,* 39 N. H. 211, it was decided that "labor" as used in the Rev. St. c. 208, Sect. 9, which provides that no person summoned as trustee shall be charged as such on account of any labor performed by the debtor after service of the process, etc., includes the official services of the mayor of the city, and hence the city could not be charged as trustee on account of such services. The rules applied in these two cases would seem to be much fairer and more nearly within the spirit of such legislation than the test in the principal case. In determining whether a particular employee is really a laborer, the character of the work he does must be taken into consideration, and he should be classified, not according to the arbitrary designation given to his calling, but with reference to the character of his services. *Oliver* v. *Macon Hardware Co.,* 98 Ga. 249. *McPherson* v. *Stromp,* 100 Ga. 228.

NEGLIGENCE—BAILEE'S CONTRIBUTORY NEGLIGENCE NOT IMPUTABLE TO BAILOR.—Plaintiff loaned his horse to X, without compensation and merely for the accommodation of X. The horse was killed by defendant railroad through the contibutory negligence of X who was riding the horse at the time. *Held* that the contributory negligence of X could not be imputed to plaintiff, and that defendant was liable. *Spellman* v. *Delano,* (Mo. App. 1914) 163 S. W. 300.

The authorities on this precise point are few and almost evenly divided. Those which hold contrary to the principal case proceed on the theory that the bailee is, in a sense, the agent of the bailor, and consequently the